

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

AC2T, Inc., d/b/a Spartan Mosquito  
8 Nemo Clark Drive  
Laurel, Mississippi 39443

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Delaware

(c) Attorneys (Firm Name, Address, and Telephone Number)

Evan L. Frank, Esq. 215.935.1000  
Alan L. Frank Law Associates, P.C.  
135 Old York Road, Jenkintown, PA 19046

**DEFENDANTS**

Colin Purrington  
226 Rutgers Avenue  
Swarthmore, PA 19081

County of Residence of First Listed Defendant

Delaware County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                                       |   |                                       |                            |
|---|----------------------------|---------------------------------------|---|---------------------------------------|----------------------------|
|   | PTF                        | DEF                                   |   | PTF                                   | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 2 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4            | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:  
Defamation**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$  
75,000.00CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DEC 17 2019

DATE  
12/17/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

19-cv-5946

**DESIGNATION FORM**

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 8 Nemo Clark Drive, Laurel, Mississippi 39448

Address of Defendant: 226 Rutgers Avenue, Swarthmore, PA 19081

Place of Accident, Incident or Transaction: Mississippi

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/17/2019

[Signature]  
Attorney-at-Law / Pro Se Plaintiff

311994

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FEELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☒ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Evan L. Frank, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 12/17/2019

[Signature]  
Sign here if applicable

Attorney-at-Law / Pro Se Plaintiff

**DEC 17 2019**  
**311994**

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

RBS

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

AC2T, Inc., d/b/a Spartan Mosquito

v.

Colin Purrington

CIVIL ACTION

NO. **19** **5946**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

12/17/19

Date

Evan L. Frank

Attorney-at-law

Plaintiff

Attorney for

215.935.1000

Telephone

215.935.1110

FAX Number

efrank@alflaw.net

E-Mail Address

(Civ. 660) 10/02

DEC 17 2019

4400  
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Counsel for Plaintiff

19 5946

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

AC2T, Inc., d/b/a Spartan Mosquito,	:	
	:	Civil Action
Plaintiff,	:	Case Number:
	:	
v.	:	Jury Trial Demanded
	:	
Colin Purrington,	:	
	:	
Defendant.	:	

COMPLAINT

Parties

1. AC2T, Inc. is a Mississippi corporation with a principal place of business in Mississippi. AC2T, Inc. does business as "Spartan Mosquito."
2. Colin Purrington is an adult individual residing in Swarthmore, Pennsylvania.

Jurisdiction and Venue

3. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.00 exclusive of costs and interest.

4. Venue is proper under 28 U.S.C. § 1391(b)(1) because the only Defendant resides in this District.

### **Summary**

5. This is a defamation case. The Plaintiff makes a product called the Spartan Mosquito Eradicator, which is a mosquito control system. The Defendant has been telling customers that the product puts them and their families at risk of contracting diseases such as EEE and West Nile. He tells customers that the product helps spread an invasive species, that Spartan Mosquito is scamming customers, and that Spartan Mosquito lies to regulatory agencies. The Defendant makes false allegations that the product does not even contain a pesticide (it does), that leaving out the pesticide lets the product avoid government regulation (it is in fact government-regulated), and that mosquitoes cannot fit inside the product to drink the insecticide (they can, and there is literally a video on Spartan's website of them doing so). He has sent similar defamatory statements to state regulatory agencies and asked them to outlaw the product.

6. The Defendant has been obsessively defaming the Plaintiff for the past four months. In that time on social media alone, he has posted over 90 such comments

on other customers' reviews on Amazon, over 40 on Twitter, and 25 on Facebook. He has also written several articles about Spartan Mosquito on his personal website. Finally, he has been sending similar defamatory statements to state regulatory agencies and asking them to withdraw their approval of the Spartan Mosquito Eradicator.

7. The Defendant is a former biology professor at Swarthmore College. In some of his statements, he uses his academic credentials in order to give authority to his claims about Spartan Mosquito. In some statements, he claims to have done scientific evaluations of the product. By couching his statements in terms of undisclosed scientific evaluations and the Defendant's own career in academia, the Defendant conveys to the audience that his false allegations are not only factual, but are supported by scientific rigor. Some of his statements are also worded as if referencing other scientists' studies in order to make it appear that the Defendant's statements reflect consensus in the scientific community (e.g., "I've corresponded with over 100 scientists and public health officials who all agree...").

8. The Defendant has repeatedly made false allegations concerning the performance of the Spartan Mosquito Eradicator, the science behind the product, the health consequences of its use, and the Plaintiff's marketing. For example:

- The Spartan Mosquito Eradicator is a complete scam. I'm a scientist and have evaluated them carefully. I found that mosquitoes are not attracted to the devices at all. And I've corresponded with over 100 scientists and public health officials who all agree that the devices attract nothing but fruit flies, ants, picnic beetles, and yellowjackets. And everyone agrees that the solution inside (water, sugar, salt, and



yeast) wouldn't kill mosquitoes even IF mosquitoes managed to get inside (the holes are too small). Indeed, professionals openly laugh about this device and speculate why so many people leave glowing testimonials. But, sadly, it's not just a waste of money – it puts people at risk of contracting mosquito-borne diseases. I.e., if a person relies on this device instead of, say, DEET, they are putting themselves and their families at increased risk of getting bitten by a mosquito carrying EEE, West Nile, etc. This company is an embarrassment for the state of Mississippi, which should have never allowed it to operate in the first place. It should be shut down, and several states (perhaps all) are planning to do exactly that. I hope that happens before they start selling the things in Africa.

Exhibit A.

- Why should states issue “stop sell” orders on scams like the Spartan Mosquito Eradicator? Because such devices are putting people's health at risk.

Exhibit B.

- This might be related to the efforts by @EPA and @amazon to remove items that violate the Federal Insecticide, Fungicide & Rodenticide Act. Spartan Mosquito and distributors often make health claims e.g., which violate the FIFRA 25(b) exemption it enjoys.

Exhibit C.

- Spartan Mosquito Eradicators provide ideal habitat (water, sugar, yeast) for larvae of spotted-wing drosophila (*Drosophila suzukii*), an invasive pest of berries and soft-skinned fruit trees. Once mature they escape through holes in the cap.” (top) “The spotted-wing drosophila probably inflicts \$1 billion in damage each year, too. And plenty of losses in Mississippi, (right @MSBugBlues?), the home state of the Spartan Mosquito Eradicator.

Exhibit D.

- Here's a movie of the insects that ARE trapped inside a Spartan Mosquito Eradicator. Yes, there are larvae inside. Alive. And some of them are spotted-wing drosophila, an invasive pest of berries in the United States. So the devices are contributing to the spread of a pest.

Exhibit E.

- Spartan Mosquito Eradicator operates in a regulatory loophole, though, because it \*doesn't\* contain a regulated pesticide. If it had actual insecticide it would absolutely need to convince regulators that the device killed mosquitoes. It's a successful scheme.

Exhibit F.

- The above claim suggests Spartan Mosquito misled states in @eparegion2, @EPAREgion3, @USEPASoutheast, @EPAREgion6, @EPAREgion7, @EPAREgion8, @EPAREgion9, and @EPAnorthwest when it declared sodium chloride is the active ingredient that kills mosquitoes (an equally inane idea).

Exhibit G.

- Amazon has recently concluded that the Spartan Mosquito Eradicator is a scam and have pulled the device...

Exhibit H.

- ...The design is so flawed in so many ways it seems as if the company didn't even care. They just want to sell it to people who might not recognize it instantly as a scam.

Exhibit I.

- I've never seen a mosquito inside my Spartan Mosquito Eradicators and I've also never seen a mosquito near it or on it. I looked through the company's website, Facebook page, and Instagram account and there's not a single photograph of a mosquito coming through one of those holes. It's all a fiction to get gullible people to buy it.



Exhibit J.

- ...just state that the seller has used deceptive advertising and that the product doesn't work.

Exhibit K.

### **Facts**

9. Spartan Mosquito makes a product called the Spartan Mosquito Eradicator, which is a mosquito control system.
10. Spartan Mosquito Eradicators are designed to substantially reduce a local mosquito population.
11. The Defendant is a former biology professor at Swarthmore College. However, he does not have any special qualifications concerning mosquitoes.
12. The Plaintiff is aware of approximately 150 statements by the Defendant concerning either Spartan Mosquito (the company itself) or the Spartan Mosquito Eradicator (the product). The defamatory statements appear on Amazon.com, Facebook.com, Twitter.com, and the Defendant's own website.
13. For example, on October 25, 2019, The Defendant wrote:  
  
The Spartan Mosquito Eradicator is a complete scam. I'm a scientist and have evaluated them carefully. I found that mosquitoes are not attracted to the devices at all. And I've corresponded with over 100 scientists and public health officials who all agree that the devices attract nothing but fruit flies, ants, picnic beetles, and yellowjackets. And everyone agrees that the solution inside (water, sugar, salt, and yeast) wouldn't kill mosquitoes even IF mosquitoes managed to get inside (the holes are too small). Indeed,

professionals openly laugh about this device and speculate why so many people leave glowing testimonials. But, sadly, it's not just a waste of money – it puts people at risk of contracting mosquito-borne diseases. I.e., if a person relies on this device instead of, say, DEET, they are putting themselves and their families at increased risk of getting bitten by a mosquito carrying EEE, West Nile, etc. This company is an embarrassment for the state of Mississippi, which should have never allowed it to operate in the first place. It should be shut down, and several states (perhaps all) are planning to do exactly that. I hope that happens before they start selling the things in Africa.

Exhibit A.

14. The message makes the false statement that the product puts customers at risk of contracting diseases such as West Nile or EEE. Because the statement makes false allegations about the physical health and wellbeing of customers, the statement tends to cause fear and alarm. The wording “themselves and their families at increased risk...” exacerbates this invoking more alarm in potential customers.

15. The message also makes the false statement that the holes at the top of the device are too small for mosquitoes to enter. The statement is false – in fact, Spartan has posted videos on its website of mosquitoes entering and exiting the holes. Since the false statement attempts to undermine the essential function of the product (mosquitoes enter, drink the solution, and then leave) it conveys to the reader that the product designed to control mosquitoes literally cannot do anything about mosquitoes.

16. The message also makes the false statement that the devices do not attract mosquitoes. By making another false statement that goes to the manner in which the

product works (the device attracts the mosquitoes in the first place, so that they can drink the solution), the statement conveys to the reader that product cannot work.

17. The message also begins by stating that the product is a scam. By alleging that the product is a scam, the Defendant attacks the honesty and integrity of the Plaintiff. By making that allegation in context with other allegations about the danger to customers, the message conveys that it is customers who are being scammed.

18. The message also states that the author is a scientist himself, that he has evaluated the product carefully, and that he has corresponded with over 100 scientists and public health officials who are all in agreement. By couching the statement in such terms, the Defendant conveys not only that the statements are factual, but that there is also a scientific certainty.

19. Also on October 25, 2019, the Defendant wrote a false statement that the devices are contributing to the spread of an invasive species, the spotted-wing drosophila. Exhibit E. The statement is defamatory because by alleging that the statement contributes to the spread of an invasive species, it invokes connotations of environmental harm that are associated with invasive species.

20. On October 11, 2019, the Defendant wrote that "Spartan Mosquito Eradicator operates in a regulatory loophole, though, because it \*doesn't\* contain a regulated pesticide. If it had actual insecticide it would absolutely need to convince regulators that the device killed mosquitoes." Exhibit F. The statement is false because

the product does contain a pesticide, and it is in fact regulated. The statement is defamatory because it attempts to make it appear that the product is not even capable of killing mosquitoes for lack of a pesticide. The Defendant frames the statement in terms of the false allegation that the product is in a regulatory loophole by not having a pesticide at all.

21. In the same message, the Defendant wrote, "It's a successful scheme." In a follow-up message, the Defendant then wrote that it is "marketed to folks who are predisposed to believe the name is truthful." These two statements directly attack the honesty and business practices of the Plaintiff. The statements are also defamatory in the context of beginning of the message – the Defendant alleges that the Plaintiff dupes customers by first not including a pesticide (which is false, there is a pesticide) and then avoiding regulation (which is also false, the product is regulated).

22. On October 14, 2019, the Defendant wrote the false statement that "Spartan Mosquito Eradicators provide ideal habitat (water, sugar, yeast) for larvae of spotted-wing drosophila (*Drosophila suzukii*), an invasive pest..." Exhibit D. The statement is defamatory because by alleging that the statement contributes to the spread of an invasive species, it invokes connotations of environmental harm that are associated with invasive species.

23. On October 12, 2019, the Defendant wrote the false statement that the product is "putting people's health at risk". Exhibit B. The statement is defamatory

because it tries to make users fear for their personal health. The statement also begins by calling the product a scam, which in context both attacks the honesty of the Plaintiff and conveys that deception is used in selling the product.

24. On October 10, 2019, the Defendant wrote that “Spartan Mosquito and distributors often make health claims e.g., which violate the FIFRA 25(b) exemption it enjoys.” Exhibit C. The statement is false because the Plaintiff does not make health claims about the Spartan Mosquito Eradicator. By attributing false statements to the Plaintiff in the context of federal law, the statement also falsely conveys that the Plaintiff is breaking federal law.

25. The Defendant has also made dozens of statements that the product is a scam, that the company deceives customers or takes advantage of gullible people, or similar allegations.

26. The Defendant made the statements either with knowledge of their falsity or with reckless disregard for their falsity.

27. As a result of the Defendant’s conduct, the Plaintiff has suffered damages.

## **COUNT I DEFAMATION**

28. The Plaintiff incorporates by reference the foregoing allegations.

29. The statements at issue have a defamatory character because they falsely accuse the Plaintiff of putting people at risk of contracting diseases; spreading an

invasive species; violating federal law; misleading state agencies; scamming customers; and using deceptive advertising.

30. Many of the statements are defamatory per se because they accuse the Plaintiff of acting improperly or committing misconduct with regards to its business; others accuse the Plaintiff of spreading diseases.

31. The recipients of the defamatory statements understood both the defamatory character of the statements and the statements' application to the Plaintiff.

32. The Defendant acted with knowledge of the statements' falsity or reckless disregard for the statements' falsity.

33. As a result of the Defendant's conduct, the Plaintiff has suffered damages.

**WHEREFORE**, the Plaintiff demands judgment in its favor and against the Defendant for damages in excess of \$75,000, interest, costs, attorney's fees, punitive damages, an injunction prohibiting further defamatory statements and directing the Defendant to retract those complained of in this case, and such other relief as the Court may deem just and proper.

## **COUNT II COMMERCIAL DISPARAGEMENT**

34. The Plaintiff incorporates by reference the foregoing allegations.

35. The statements at issue have a commercially character because they make false allegations about the Plaintiff's product: that it puts people at risk of contracting

diseases; spreads an invasive species; violates federal law; got to market through misleading state agencies; and is marketed to customers deceptively.

36. The statements were intended to cause financial loss to the Plaintiff, in that their purpose was to disparage the Plaintiff's product in order to dissuade potential customers.

37. The recipients of the statements understood both the commercially disparaging character of the statements and the statements' application to the Plaintiff.

38. The Defendant acted with knowledge of the statements' falsity or reckless disregard for the statements' falsity.

39. As a result of the Defendant's conduct, the Plaintiff has suffered damages.

**WHEREFORE**, the Plaintiff demands judgment in its favor and against the Defendant for damages in excess of \$75,000, interest, costs, attorney's fees, punitive damages, an injunction prohibiting further defamatory statements and directing the Defendant to retract those complained of in this case, and such other relief as the Court may deem just and proper.



Respectfully submitted,



---

Evan L. Frank, Esq.  
PA Bar No. 311994  
Alan L. Frank Law Associates, P.C.  
135 Old York Road  
Jenkintown, PA 19046  
215-935-1000  
215-935-1110 (fax)  
afrank@alflaw.net  
Counsel for Plaintiff

December 16, 2019

**DEMAND FOR JURY TRIAL**

The Plaintiff demands a trial by jury for all counts so triable.

Respectfully submitted,



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afrank@alflaw.net  
Counsel for Plaintiff

December 16, 2019



**Colin Purrington** doesn't recommend Spartan Mosquito. \*\*\*

October 25 at 8:26 AM

The Spartan Mosquito Eradicator is a complete scam. I'm a scientist and have evaluated them carefully. I found that mosquitoes are not attracted to the devices at all. And I've corresponded with over 100 scientists and public health officials who all agree that the devices attract nothing but fruit flies, ants, picnic beetles, and yellowjackets. And everyone agrees that the solution inside (water, sugar, salt, and yeast) wouldn't kill mosquitoes even if mosquitoes managed to get inside (the holes are too small). Indeed, professionals openly laugh about this device and speculate why so many people leave glowing testimonials. But, sadly, it's not just a waste of money — it puts people at risk of contracting mosquito-borne diseases. I.e., if a person relies on this device instead of, say, DEET, they are putting themselves and their families at increased risk of getting bitten by a mosquito carrying EEE, West Nile, etc. This company is an embarrassment for the state of Mississippi, which should have never allowed it to operate in the first place. It should be shut down, and several states (perhaps all) are planning to do exactly that. I hope that happens before they start selling the things in Africa



Start a private conversation with Colin Purrington in Messenger

Message



2

4 Comments

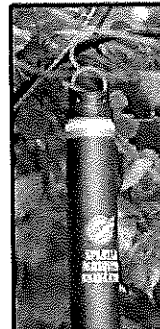
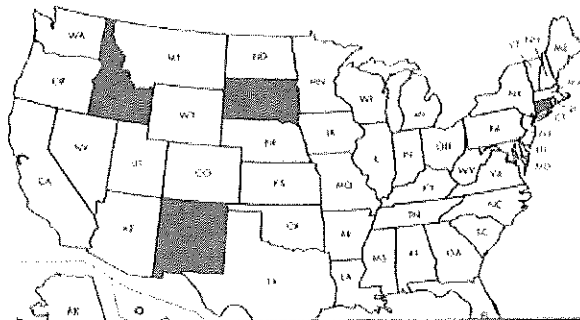




**Collin Purrington** @colinpurrington · Oct 12

The reason citizens and organizations should write to their state officials **\*now\*** is because Spartan Mosquito must reapply to each state by Dec 31st for permission to sell. Please send your input today. Contact info: [aapco.files.wordpress.com/2019/03/25b-wo...](http://aapco.files.wordpress.com/2019/03/25b-wo...)

It is illegal to sell Spartan Mosquito Eradicators in Idaho, New Mexico, South Dakota, Connecticut, and D.C.



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**Collin Purrington**  
@colinpurrington

Replying to @colinpurrington @AMCAtweets and 15 others

**Why should states issue "stop sell" orders on scams like the Spartan Mosquito Eradicator? Because such devices are putting people's health at risk. The Association of American Pesticide Control Officials has detailed guidance for state regulators here:**

[aapco.org/2015/07/02/fif...](http://aapco.org/2015/07/02/fif...)

"Specifically, these untested pesticides often misleadingly and falsely claim to control public health pests with the result that consumers mistakenly and detrimentally rely upon these pesticides to protect their health."

"If a claim is not supported by data, it is therefore considered false or misleading and does not qualify for the 25(b) minimum risk exemption. Lack of supporting data could be grounds for denial of state registration."

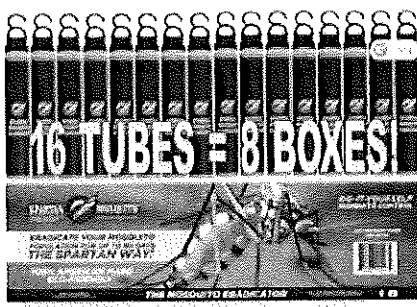
Association of American Pesticide Control Officials  
(AAPCO) 25(b) Workgroup





Colin Purrington @colinpurrington · Oct 10

**Breaking news: Amazon has stopped selling Spartan Mosquito Eradicators. I just thought everyone should know.** cc @AMCAtweets @msdh @MSDeptofAg @PublicHealth @hburgamerican @Hattiesburg\_MS @MS\_MVCA @CityofLaurelMS @TruthinAd @MississippiSOS @mphassoc @MUVE\_ESA @MIAAlliance\_info



**16 TUBES = 8 BOXES!**

**1-Acre Season Pack**

**SPARTAN MOSQUITO ERADICATOR Full Season 365 Pack (16 Tubes): Best Whole Yard Outdoor Killer Killer Solution. More Effective Than Short-Term Insect Repellent Trap. Mosquito Free Backyard Garden Paths.**

**1-Acre Season Pack**

**16 Tubes = 8 Boxes**

**1-Acre Season Pack**

1 1 32



Colin Purrington @colinpurrington · Oct 10

This might be related to the efforts by @EPA and @amazon to remove items that violate the Federal Insecticide, Fungicide & Rodenticide Act. Spartan Mosquito and distributors often make health claims, e.g., which violate the FIFRA 25(b) exemption it enjoys.



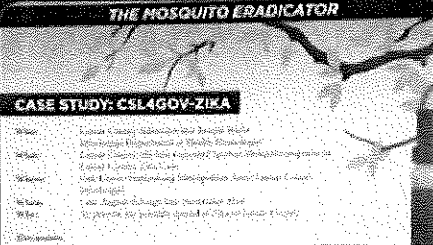
**Amazon Services LLC FIFRA Settlement | US EPA**  
This is the information sheet for Amazon Services LLC (Amazon).  
[epa.gov](https://www.epa.gov)

1 1 2



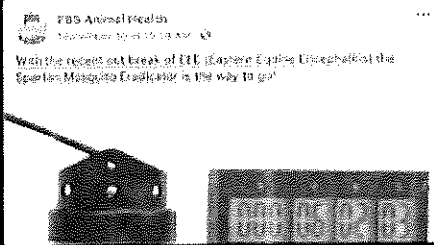
Colin Purrington @colinpurrington · Oct 10

Here are four examples showing how Spartan Mosquito Eradicator, distributors, and resellers push the idea that the devices protect against mosquito-borne diseases. All in clear violation of the FIFRA 25(b) exemption.



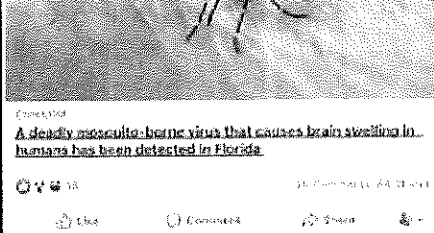
**THE MOSQUITO ERADICATOR**

**CASE STUDY: CSL4GOV-ZIKA**



**PBS Animal Health**

With the recent outbreak of EEE, a deadly Equine Encephalitis the Equine Mosquito Eradicator is the way to go!



**Cronk, MD**

**A deadly mosquito-borne virus that causes brain swelling in humans has been detected in Florida.**

1 1



Colin Purrington @colinpurrington · Oct 11

ALL-STATE LEGAL®

EXHIBIT

C





**Colin Purrington**  
@colinpurrington

Spartan Mosquito Eradicators provide ideal habitat (water, sugar, yeast) for larvae of spotted-wing drosophila (*Drosophila suzukii*), an invasive pest of berries and soft-skinned fruit trees. Once mature they escape through holes in the cap.



11:02 AM · Oct 14, 2019 · Twitter Web App

1 Retweet 6 Likes



**Autumn Angelus** @AutumnAngelus · 2h

Replying to @colinpurrington

☹️ can't do what they claim, so may as well produce a load of pests!



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**Colin Purrington** @colinpurrington · 1h

The spotted-wing drosophila probably inflicts \$1 billion in damage each year, too. And plenty of losses in Mississippi, (right @MSBugBlues?), the home state of the Spartan Mosquito Eradicator.




1



ALL-STATE LEGAL®

EXHIBIT

D

 Comment



Colin Purrington

[Comment on this post](#) [Share](#) [Retweet](#) [Like](#)

Here's a movie of the insects that ARE trapped inside a Spartan Mosquito Eradicator. Yes, there are larvae inside. Alive. And some of them are spotted-wing drosophila, an invasive pest of berries in the United States. So these devices are contributing to the spread of a pest.

[View translation](#)







**Rani La Sorcière ~ Science Skeptic** @MilitaryRosary · Oct 11

so, do they use something that harms something other than mosquitoes?  
is that why they are banned?

3



1



**Colin Purrington**  
@colinpurrington

Replying to @MilitaryRosary

**Spartan Mosquito Eradicator operates in a regulatory loophole, though, because it *\*doesn't\** contain a regulated pesticide. If it had actual insecticide it would absolutely need to convince regulators that the device killed mosquitoes. It's a successful scheme.**

2:07 PM · Oct 11, 2019 · Twitter Web App

1 Like



**Rani La Sorcière ~ Science Skeptic** @MilitaryRosary · Oct 11

Replying to @colinpurrington

so it doesn't even kill mosquitoes? I mean, I'd never heard of them, before  
so I know nothing about them.

1



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**Colin Purrington** @colinpurrington · Oct 11

Nope. The Spartan Mosquito Eradicator doesn't kill mosquitoes. Not  
unless it falls on one. It's just a product marketed to folks who are  
predisposed to believe the name is truthful.



**Spartan Mosquito Eradicator (review) » Colin Purrington**

Spartan Mosquito Eradicators are selling like hotcakes around the  
country so I bought two and thought I'd share some thoughts. The ...

[colinpurrington.com](http://colinpurrington.com)

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**Rani La Sorcière ~ Science Skeptic** @MilitaryRosary · Oct 11

wow. yeah, that's junk



2



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EXHIBIT

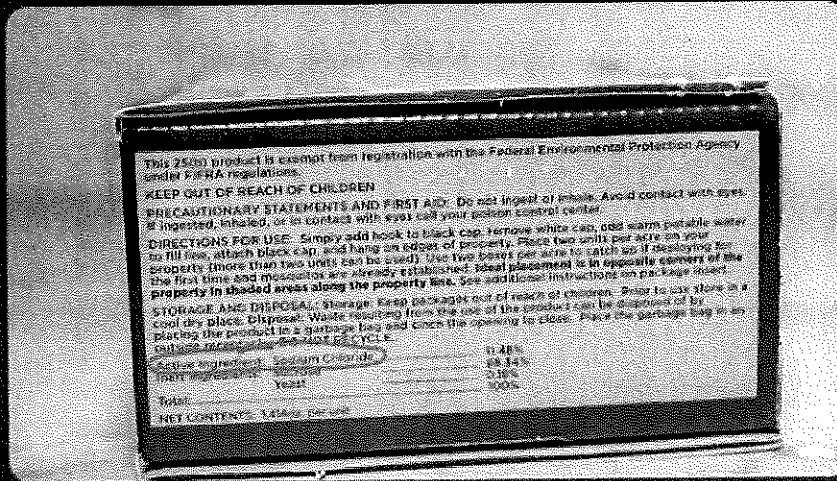
**F**





**Colin Purrington** @colinpurrington · 22h

The above claim suggests Spartan Mosquito misled states in @eparegion2, @EPAregion3, @USEPASoutheast, @EPAregion6, @EPAregion7, @EPARegion8, @EPAregion9, and @EPAnorthwest when it declared sodium chloride is the active ingredient that kills mosquitoes (an equally Inane idea).



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**Colin Purrington**  
@colinpurrington

Replying to @colinpurrington @EPAregion2 and 7 others

If you want to know more about Spartan Mosquito (4.5 million boxes sold!) go to the owner's Nov 13 lecture at @InnovateMS's Accelerate conference at the Westin in Jackson — Mr Hirsch is the Featured Innovator. He also received a #behindthebusiness award by the @MississippiSOS.



Releva



Trends

Trending i

#Trump

21.5K Tw

#DareTo

Now play

Promo

Trending i

#FunFac

1,183 Tw

Trending i

#ShutUp

1,531 Tw

Trending i

#Fursult

5,317 Tw

Show me

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EXHIBIT

G

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Oldest ▾

**AMCA** American Mosquito Control Association (AMCA) Hi Colin - Please reach out to us via email at amca@mosquito.org with any additional info on this change. Thank you!

Like Reply 5w

**Colin Purrington Done!**

Like Reply 5w

**Colin Purrington cc Mosquito Illness Alliance** This might be a nice way to communicate to public the ineffectiveness of Spartan Mosquito Eradicators.

Like Reply 5w

Write a reply



**Colin Purrington** Amazon has recently concluded that the Spartan Mosquito Eradicator is a scam and have pulled the device. It's still available at feed stores around the country, and I assume people will keep buying it at those locations. It would be great to get the word out to the public so that people don't try to protect themselves from mosquito-borne diseases with Spartan Mosquito Eradicators. I don't think the feed stores are going to inform customers. <https://www.amazon.com/s...>

AMAZON.COM  
Amazon.com: spartan mosquito





B. Veronico

☆☆☆☆☆ **Overpriced: You can make this at home for \$1 and a soda bottle.**

September 9, 2018

Verified Purchase

This is a mosquito trap. That is all it is. The ingredients are 11% salt and 88% table sugar with less than 1% yeast (that stuff you buy in the baking section). The yeast starts eating the sugar and the CO2 gas it produces attracts mosquitoes. They enter the device through conical 1-way holes (like in a minnow trap). they get trapped in there, and drop dead. That's why the water you add has to be warm. Yeast won't wake up in cold water.

The thing is, the company isn't trying to hide this fact from anyone, company co-president Jeremy Hirsch has given a number of interviews where he says exactly what's in there and how it works. The only thing is you shouldn't get fooled by the idea that you have to buy a new one of these every 90 days or whatever. Just make the mix at home, re-fill and you're good to go again. This is basically a small version of those large mosquito trap machines but it doesn't need electricity or propane. If you want to save money, put out something online that says you are looking for used/empty Spartan canisters and just fill them with the % of ingredients to the weight level printed on the label itself.

36 people found this helpful

Helpful

^ 6 comments

Report abuse

Comment

Showing 5 comments

Sort by: Newest Oldest

Colin Purrington 17 days ago

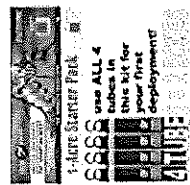
Report abuse

Just a word of caution about adding the ingredients yourself: it still will not work. The design is flawed in so many ways it seems as if the owners of the company didn't even care. They just want to sell it to people who might not recognize it instantly as a scam.

✓ Leave a reply








SPARTAN MOSQUITO  
ERADICATOR - Best Whole Yard  
Outdoor Mosquito Protection  
Solution, More Effective...


Showing 1-2 of 2 answers

The tubes are not designed for mosquitoes to die in them; mosquitoes typically enter the tube, drink the solution, and exit. However, their wings can sometimes get wet, and that can cause them to die inside the Eradicator.

 LIGHTS ON DISTRIBUTORS Seller · May 30, 2019 | Delete

✓ Comments | Leave a Comment

I've never seen a mosquito inside my Spartan Mosquito Eradicators and I've also never seen a mosquito near it or on it. I looked through the company's website, Facebook page, and Instagram account and there's not a single photograph of a mosquito going through one of those holes. It's all a fiction to get gullible people to buy it.

 Colin Purrington · August 9, 2019

There seems to be some confusion. Are the mosquitos supposed to drink the solution and then die in the tube OR are they supposed to fly away and die?

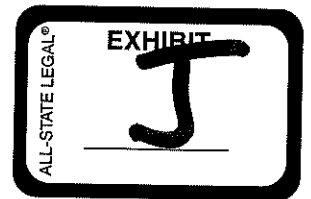
asked on May 31, 2019

Answer this question

Your answers help others learn about this product

See all questions about this product

Answer





SPARTAN MOSQUITO  
ERADICATOR - Best Whole Yard  
Outdoor Mosquito Protection  
Solution; More Effective...

My mother purchased these. She paid \$50 for only a few cents of ingredients. I am requesting the company contact me to discuss refunding her money.

asked on July 12, 2019

Answer this question

Your answers help others learn about this product

See all questions about this product

Showing 1-2 of 2 answers

I agree it's a rip off.



Nathan Thomas Herrington · July 19, 2019

✓ Comments | Leave a Comment | Do you find this helpful? Yes No | Report abuse

You can also complain to Amazon directly. Just state that the seller has used deceptive advertising and that the product doesn't work.



Colin Purington · August 3, 2019

Leave a Comment | Do you find this helpful? Yes No | Report abuse

